

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2015-042-00496C

Parcel No. 5960122200000000

William Foley,  
Appellant,

v.

Hardin County Board of Review,  
Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 1, 2016. William Foley was self-represented and participated by phone. Assessor Donald Knoell was the Board of Review's representative. It did not participate in the hearing.

Foley is the owner of a commercial self-serve car wash located 411 S Oak Street, Iowa Falls. The car wash was built in 1990, and has three self-serve bays and one automatic bay totaling 2028 square feet. (Ex. A). It also has 11,500 square feet of concrete parking. The site is 0.752 acres.

The property's January 1, 2015, assessment was \$235,710, allocated as \$60,380 in land value and \$175,330 in improvement value. Foley protested to the Board of Review claiming the assessment is not equitable as compared with assessments of other like property under Iowa Code section 441.37(1)(a)(1)(a). The Board of Review reduced the assessed value to \$197,580, allocated as \$60,380 in land value and \$137,200 in improvement value.

Foley then appealed to PAAB asserting the correct assessment is \$78,000.

## Findings of Fact

The property record card indicates Foley purchased the subject property in April 2014 for \$330,000. There is no other information about this transaction in the record.

Foley submitted ten commercial properties located along South Oak Street that he believes are comparable to his car wash. (Ex. B). The following chart is a summary of the information Foley submitted.

Address	Use	Year Built	2014 AV	Gross Building Area (GBA)	Site Size (SF)	Total AV/SF
600 S Oak	Car Wash	2004	\$103,456	2810	26,136	\$36.82
505 Industrial Park	Plumbing/Retail	1947	\$114,500	8932	19,500	\$12.82
400 S Oak	Retail	1999	\$228,080	8932	31,000	\$25.54
420 S Oak	Retail/Auto Service	1920	\$210,880	9800	23,000	\$21.52
410 S Oak	Warehouse	1940	\$87,670	2529	35,400	\$34.67
440 S Oak	Retail/Service	1966	\$277,950	12,096	37,878	\$22.98
505 S Oak	Auto Service	1963/1994	\$140,820	4820	32,760	\$29.22
501 S Oak	Retail/Service	1976	\$112,370	5480	17,100	\$20.51
669 S Oak	Auto Service	2000	\$236,800	5400	41,420	\$43.85
421 S Oak	Body Shop	1946	\$62,410	4432	15,660	\$14.08

Foley asserts his property is assessed at a higher value per-square-foot for both the improvements and land, and ultimately at a higher value per-square-foot for the total 2015 assessment. However, he also testified that he submitted the properties' 2014 assessments. For this reason alone, the evidence is unreliable for an equity claim, as 2015 assessments should be used to compare to his 2015 assessment.

Additionally, we note only one property is a car wash like the subject. The other properties are retail, warehouse, or auto service facilities, and we question their comparability to the subject. Foley did not submit any other information about the properties, and we are therefore unable to determine if there is comparability between them and the subject property.

Finally, there is no information to indicate that any of these properties recently sold, and Foley did not provide any other opinion of market value for them. Therefore, an assessment/sale ratio analysis cannot be developed.

The Board of Review did not submit any evidence.

### **Conclusions of Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2015). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 257 Iowa 575, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

“(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

*Id.* at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Foley offered ten properties he considered comparable to his for an equity analysis. While, all of the properties are located in the same general area, the record lacks information to determine whether these properties are reasonably comparable to the subject property, the properties’ 2015 assessed values, and information regarding whether any of the properties recently sold. All of this information is necessary to calculate an assessment/sales ratio to prove inequity.

Based on the foregoing, we find Foley has submitted insufficient evidence to support his claim that the subject property’s assessment is inequitable.

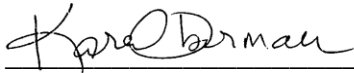
## **Order**

IT IS THEREFORE ORDERED that the Hardin County Board of Review’s action is affirmed.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2015). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of

PAAB administrative rules. Such application will stay the period for filing a judicial review action. Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.

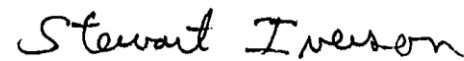
Dated this 4th day of March, 2016.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member



Stewart Iverson, Board Chair

Copies to:

William Foley

Richard Dunn/Donald Knoell